

The Applicants sincerely appreciate the Examiner's indication that claims 2 through 4 and 6 through 8 have been allowed.

The Applicants also appreciate the Examiner's consideration of the information submitted via the November 1, 2002 and November 19, 2002 information disclosure statements. It appears that the Examiner has inadvertently not initialed reference B5 submitted with the November 19, 2002 information disclosure statement. It is respectfully requested that the Examiner initial this reference. If the Examiner is missing a copy of this reference, the undersigned will fax the Examiner a copy.

Claims 1, 5, 9 and 10 stand rejected under § 102(e) as being anticipated by Hashimoto.

It is respectfully submitted that the present claims are clearly not anticipated by Hashimoto for at least the following reasons.

Claims 1 and 5 both recite: "damping an operating signal for the intake valve relative to a change in acceleration or deceleration demand on the engine, for unthrottled intake air control." By "damping" it is meant that the engine torque gradually rises or falls, in a manner which is neither step-like nor ramp-like, from a first level to a second level at which the response plateaus. *See* the solid line in Figures 11B and 11C illustrating a damped response compared to the accelerator demand in Figure 11A. It is to be appreciated that Figure 11A depicts the vehicle accelerator position opening (VAPO) as monitored by the accelerator sensor 52 coupled to the accelerator 50 (Figure 1). The variable valve disclosed in Hashimoto does not respond to changes in demand in a damped fashion. Rather, the timing for opening or closing the valve 17 disclosed in Hashimoto is either advanced or retarded as described in column 9, lines 16-44.

Although Hashimoto teaches changing valve opening/closing timing, Hashimoto does not teach a dampened response relative to a change in acceleration or deceleration demand on the engine. Accordingly, as Hashimoto fails to teach or suggest "damping an operating signal for the intake valve relative to a change in acceleration or deceleration demand on the engine, for unthrottled intake air control," it can not be used to anticipate claims 1, 5, 9-10 under

§ 102(e). Therefore, as Hashimoto fails to teach or suggest each of the limitations of these claims, Applicants respectfully solicit a withdrawal of the rejection of these claims under § 102(e).

Also, both of the independent claims 1 and 5 recite damping for unthrottled intake air control. As discussed in the present specification, during unthrottled control, the throttle valve is at or near the wide open position. Thus, “unthrottled” in the context of this invention means that the throttle valve is completely open or almost completely opened.

The portion of Hashimoto cited in the office action as disclosing unthrottled intake air control (column 11, lines 9 through 16 and column 20, lines 19 through 25) discuss control using a valve which bypasses the throttle valve. In such a control, the throttle valve is fully closed, as discussed in Hashimoto, column 15, lines 22 through 32. Thus, the cited portions of Hashimoto do not disclose unthrottled intake air control.

It is thus respectfully submitted that claims 1, 5, 9 and 10 are clearly not anticipated by Hashimoto.

It is respectfully submitted that the application is now in condition for allowance.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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